

Notice of Allowability

Application No.

09/964,849

Examiner

Taylor Victor Oh

Applicant(s)

ELLIS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/1/05.
2. ☒ The allowed claim(s) is/are 1-3 and 5-26, renumbered as claims 1-25.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 1/4/06.

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☒ Other _____

A Drawing filed on
9/28/07 is accepted
T.O.

CEILA CHANG
PRIMARY EXAMINER, Art. 101
GROUP 1200, 1625

The examiner has decided to withdraw the previous Office Actions in view of the arguments in the Appeal Brief.

Examiner's Amendment and Reasons of Allowance

The Status of Claims

Claims 1-3 and 5-26 are pending.

Claims 1-3 and 5-26 have been allowed.

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with an attorney of record, Mr. Leonard Michard on 1/4/05 .

I. The application has been amended as follows:

In claim 1, lines 8-9 on page 2 (amendment dated on 6/23/05):

The phrase "-- in the range 10:1 to 1:10 --" has been inserted before the phrase "by controlling the concentration of the alkene".

In claim 2, lines 7-8 on page 2 (amendment dated on 6/23/05):

The phrase "-- in the range 10:1 to 1:10 --" has been inserted before the phrase "by controlling the concentration of alkene".

In claim 3, lines 8-9 on page 3 (amendment dated on 6/23/05):

The phrase "-- in the range 10:1 to 1:10 --" has been inserted before the phrase "by controlling the concentration of alkene".

Claim 4 has been canceled.

II. The following is an examiner's statement of reasons for allowance:

- The rejection of Claims 1-3 and their dependent claims under 35 U.S.C. 112, second paragraph, has been withdrawn due to applicants' convincing argument.
- The close prior art are McCain, Jr. et al (U.S. 5,162,578) , Manyik et al (U.S. 4,899,003) , and Fisher et al (U.S. 3,458,406).

McCain, Jr. et al discloses a process of producing acetic acid by reacting ethane or ethylene and oxygen in the presence of a catalyst system selected from the group comprising molybdenum, vanadium, gallium, palladium, niobium, silicon, indium , tungsten, and etc..

Manyik et al discloses a process of producing ethylene and acetic acid by reacting ethane and oxygen in the presence of a catalyst system selected from the group comprising molybdenum, vanadium, palladium, niobium, tungsten, and etc..

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Fisher et al teaches a process of separating methyl acetate and ethyl acetate from vinyl acetate prepared by reacting ethylene with acetic acid in the presence of a reduction-oxidation catalyst.

The instant invention, however, differs from the prior art in that none of them have disclosed a teaching of adjusting the molar ratio of alkene to carboxylic acid in the range 10:1 to 1:10 produced in the oxidation zone by controlling the concentration of alkene introduced in the oxidation zone. In addition, unless all limitations of the claims are met, there is no prior art rejection. See In re Zurko 59 USPQ 2d 1690 (Fed Cir. 1991) and In re Lee, 61 USPQ 1430 (Fed Cir. 1991).

Therefore, applicants' claimed subject matter would not have been obvious to the person with an ordinary skill in the art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning the communication after allowance such as sending all post-allowance correspondence should be directed to "Box Issue Fee" or faxed directly to PUBS at 703-305-8755. This will expedite the process of these papers.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Taylor V. Tran Jr.
1/4/08

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